



Costs Decision

Site visit made on 20 April 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

**Costs application in relation to Appeal Ref: APP/D0840/W/22/3306508
Rosevidney Barton, Road between lane to Tregilliowe Farm and Gitchell
Lane, Rosevidney, Crowlas TR20 9AZ**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Edwin Hosking for a full award of costs against Cornwall Council.
 - The appeal was against the refusal of the Council to grant planning permission for a detached dwelling with integral garage.
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Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The applicant essentially claims that through its decision the Council has taken an inconsistent approach to applications, whilst also failing to give appropriate weight to the applicant's fallback position. It is therefore indicated that the Council has failed to provide adequate evidence to substantiate its reasons for refusing planning permission.
4. It can be seen in the main decision that I disagree with the Council in relation to its findings on the main issue. Nevertheless, the decision rested on design matters which are often highly subjective issues. Furthermore, in refusing the application the evidence presented by the Council is suitably specific and detailed in relation to the perceived harm to the character of the area and the setting of the listed building, while it is also linked to relevant associated policy and legislation.
5. The applicant also claims that the Council has behaved inconsistently in considering the proposal's effect on the setting of the nearby listed building, as the heritage asset had not been a constraint to past applications within the near vicinity. However, I have only limited details of the previous applications and from the available information it has not been suitably demonstrated that the Council has taken an inconsistent approach. This is particularly given that individual application schemes will likely have had differences (albeit potentially subtle) in their design and/or relationship with the listed building, or the public benefits they may have generated.

6. It is also clear that the Council did consider the applicant's potential fallback position and indeed the original case officer's report highlights that moderate weight was given to this. Differences between the appeal scheme and the previous planning permission were also discussed to justify the weight that was given to the fallback position and the Council's overall decision. Whilst I came to an alternative view, the level of weight to be given to the potential fallback option in the planning balance is a matter for the decision maker and has been clearly reasoned by the Council.
7. I am therefore satisfied that the Council has shown it was able to substantiate its reasons for refusal.
8. With regards to the timeframe in which the Council determined the application, I have been provided with no specific details as to why the process was delayed. I appreciate that the delays will be frustrating to the applicant. However, the PPG is clear that costs may only be awarded where unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. In this instance, even if the application had been determined within the statutory timeframe, an appeal would still have been necessary.
9. For the reasons set out above, unreasonable behaviour resulting in unnecessary or wasted expense during the appeal process has not been demonstrated and an award of costs is therefore not warranted.

Lewis Condé

INSPECTOR